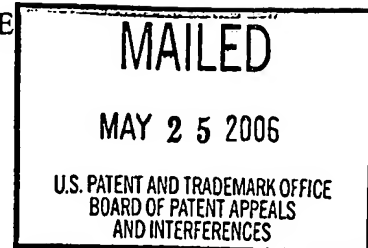


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: PAVEL G. POLYNKIN,
MARK H. GARRETT and JEFFREY P. WILDE

Application No. 10/033,549



ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received at the Board of Patent Appeals and Interferences on April 10, 2006 . A review of the application has revealed that the application is not ready for review and consideration. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

On January 18, 2006, an Examiner's Answer was mailed in response to the Appeal Brief received October 3, 2005. The rejections listed in the Examiner's Answer included:

- 1) Claims 1-7, 32 and 35 under 35 U.S.C. §103(a) over Stafford [5,504,575] in view of Tobias [5,483,335] (see page 3).

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However, the explanation for the rejection that follows includes an explanation under 35 U.S.C. §103(a) for claims 8-11. The above mentioned discrepancies cause confusion as to which claims are rejected. Appropriate clarification is required.

A further view of the Examiner's Answer mailed January 18, 2006, reveals that it is not in compliance with the Manual of Patent Examining Procedure, MPEP § 1207.02, which states:

(8) Evidence Relied Upon

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

Appropriate correction of the record is required.

CONCLUSION

Accordingly, it is

Ordered that the application is remanded to the Examiner to

1) vacate the Examiner's Answer mailed January 18, 2006;

2) issue a revised Examiner's Answer to include all required sections as set forth in

37 CFR § 41.37;

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3) set forth all pertinent rejections; and

4) for such further action as may be deemed appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e. abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'Dale M. Shaw', is written over a horizontal line.

DALE M. SHAW
DEPUTY CHIEF APPEAL ADMINISTRATOR
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DMS/dpv

Application No. 10/033,549

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C. Claims 12-17 are Patentable over Stafford in View of Tobias and Saunderson

Appellant incorporates the arguments made with respect to the combination of Stafford and Tobias. Accordingly, the examiner incorporates the above reply to those arguments. Appellant further argues that Saunderson involves a servo system which goes against Tobias' teaching of elimination of moving parts. The examiner notes again that no mechanical parts of the Tobias invention are incorporated into the Stafford device in the rejection. Tobias' preference for no moving parts does not nullify the disclosed advantages of array-type detectors.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Mike Stahl MJS

December 19, 2005


Rodney Bovernick
Supervisory Patent Examiner
Examination Center 2800

Conferees:

Rodney Bovernick, Supervisory Patent Examiner

Georgia Epps, Supervisory Patent Examiner

